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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,374	02/19/2004	Wenjie Deng	3002 P268AUS	3567
30497 7590 11/24/2009 FLYNN, THIEL, BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631				
EXAMINER				
BUL VY Q				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
11/24/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/782,374

**Applicant(s)**

DENG ET AL.

**Examiner**

Vy Q. Bui

**Art Unit**

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 12-35 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 12-32 is/are allowed.  
6) ☒ Claim(s) 1-5 and 33-35 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SI/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 6-11 directed to a sub-combination have been withdrawn and canceled from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention. Election was made **without** traverse for further examination of the invention as recited in claims 1-5, 12-30 in the reply filed on 2/5/2009.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2, 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Hilscher et al-7,086,111 B2.

As to claims 1-2, Hilscher-'111 discloses a powered tooth brush comprising substantially all the structural limitations in the claims including shaft 49 (Fig. 25), coupling assembly including elements (2, 54) having a coupling bore to receive shaft 28 (having a circular cross-sectional area) of a powered tool (Fig. 25), transponder 19 and ring-shaped coil 44 embedded in ring 8 (Fig. 20, 14, 17). Notice that the "surgical tool" in the preamble indicates an intended use of the device but does not offer any structural limitation to make a structural difference between the device in Hilscher-'111 and the device in the present invention.

As to claim 3, Hilscher et al-7,086,111 (C 4, L 21-24) discloses sensing element (transponder 19, for example) is disposed in a soft plastic portion.

As to claim 4, element 2 defines a coupling bore having an end opening which communicates with the coupling bore into which ring 8 with transponder 19 is inserted.

Notice that the Hilscher-'111 device can be used in the mouth of a patient (surgical site defined in the body of a patient) to clean a tooth during an oral surgical procedure as recited in the claims.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hilscher et al-7,086,111 B2.

As to claim 3, Hilscher et al-7,086,111 (C 4, L 21-24) does not explicitly disclose transponder 19 is disposed in a plastic ring portion 8. However, plastic is well known material for embedding and sealing and protecting a sensor, such as a transponder 19, because plastic is easy to mold and fluid proof. It would have been obvious to one of ordinary skill in the art to make ring 8 containing transponder 19 of a plastic as plastic is well known fluid proof material to protect transponder 19.

2. Claims 5, 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hilscher et al-7,086,111 B2 in view of Kablik et al-6,007,556.

As to claims 5, 33-35, Hilscher et al-7,086,111 (C 4, L 21-24) discloses substantially the claimed invention except for shaft 49 coupled to a cutting head in a spinal procedure, an ENT procedure, a neurological procedure or an endoscopic procedure. However, Kablik-'556 (F 4) discloses rotating shaft 104 coupled to cutting head 40 in a surgical procedure. It would have

Art Unit: 3773

been obvious to one of ordinary skill in the art to modify shaft 49 of Hilscher-'111 to fit cutting head assembly 40 and 31 so that one can use the device in a surgical procedure as recited in the claims.

### ***Allowable Subject Matter***

Claims 12-32 are allowed.

### ***Response to Arguments***

Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

Art Unit: 3773

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/  
Primary Examiner, Art Unit 3773